

GVEC

Guadalupe Valley Electric Cooperative, Inc.

HEADQUARTERS OFFICE
P.O. Box 118 — 825 E. Sarah DeWitt Dr.
Gonzales, Texas 78629-0118
210-672-2871 — FAX 210-672-9841

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APR 17 1996

FCC MAIL ROOM

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW
Room 222
Washington, DC 20554

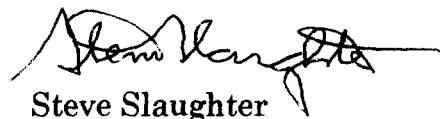
Re: Microwave Relocation Cost-Sharing WT Docket No. 95-157

Dear Mr. Caton:

Pursuant to Section 1.1206(a)(2) of the Commission Rules, this is to notify you that the attached letter was sent today. The attached letter responds to certain assertions involving Guadalupe Valley Electric Cooperative, Inc. made by the Cellular Telecommunications Industry Association (CTIA) in its March 1, 1996 letter to the Chairman.

An original and one copy of this notice are being filed for inclusion in the above referenced docket.

Sincerely,


Steve Slaughter

Attachment

GVEC

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April 15, 1996

The Honorable Reed E. Hundt
Chairman
Federal Communications Commission
1919 M Street, N.W.
Room 814
Washington, D.C. 20554-0001

Re: Assertions concerning Guadalupe Valley Electric
Cooperative, Inc. in connection with microwave
relocation

Dear Mr. Chairman:

The purpose of this letter is to address certain statements made by Mr. Thomas E. Wheeler of the Cellular Telecommunications Industry Association ("CTIA") regarding Guadalupe Valley Electric Cooperative, Inc. ("GVEC") in his March 1, 1996 letter to you. That letter was concerning what Mr. Wheeler described as unconscionable demands by certain incumbent microwave operators in the 2 GHz band in connection with microwave relocation. In his letter, Mr. Wheeler included GVEC in his list of representative transgressive incumbents. We feel compelled to address what we believe are misleading assertions involving GVEC in Mr. Wheeler's letter.

In various parts of Mr. Wheeler's letter, GVEC (along with certain other incumbents) is characterized as "outlandish," "irresponsible," "greedy" and "mercenary." Also, in an attachment to Mr. Wheeler's letter, GVEC is likened to "a used car salesman." GVEC is a well-respected organization that has provided electric power service to the communities it serves for 57 years, and we take great offense to these characterizations.

In support of his derogatory characterizations, Mr. Wheeler included with his letter a number of attachments outlining some of the demands to which Mr. Wheeler claims Sprint Spectrum ("Sprint") has been subjected, which he summarized on page 2 of his letter. The key assertions by Mr. Wheeler concerning GVEC are contained in that summary. With respect to GVEC, the summary indicates that (i) two (2) links are involved in GVEC's



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relocation, (ii) GVEC's "Requested Cost" of relocation is \$1,304,416, (iii) the "Estimated Fair Cost" of relocation for GVEC is \$500,000, and (iv) the "Extortion Delta" for GVEC is \$804,416 (i.e., the "Requested Cost" minus the "Estimated Fair Cost").

The information regarding GVEC in the summary on page 2 of Mr. Wheeler's letter is seriously misleading primarily because the summary compares "apples to oranges" by listing an "Estimated Fair Cost" of \$500,000 that only covers the two (2) GVEC paths implicated in Sprint's frequency block, and comparing that cost to a "Requested Cost" that covers all four (4) paths in GVEC's system in order to arrive at what Mr. Wheeler calls the "Extortion Delta." Although it is true that GVEC only has two (2) duplex paths that lie in Sprint's frequency block, GVEC in fact has four (4) duplex paths in the affected spectrum (i.e., 1.85 to 1.99 GHz). Mr. Wheeler's summary fails to make this clear.¹ If the basis for listing the number of links for GVEC as two (2) is that only two (2) links are implicated in Sprint's frequency block, the information in the summary is misleading because it fails to take into account the fact that Sprint would not bear the entire relocation cost alone. Part of the cost would be borne by other PCS licensees, either through existing private cost-sharing agreements or through possible FCC mandated cost-sharing.

Another reason that the information regarding GVEC in the summary on page 2 of Mr. Wheeler's letter is inaccurate is that the "Requested Cost" for GVEC listed in the summary is based on cost figures that do not include price discounts that are available to the PCS licensees from the microwave equipment manufacturers, which discounts we understand are substantial. Because of those discounts, the true cost to the PCS licensees will be far less than the \$1,304,416 listed in the summary.² As the result of a lack of

¹ Listing the number of paths as two (2) in the summary would have been appropriate if the "Requested Cost" entry for GVEC applied only to the Sprint paths. Instead, the "Requested Cost" entry for GVEC relates to all four (4) of GVEC's paths.

² In this regard, we believe that the true cost to the PCS licensees for relocating all four (4) of GVEC's paths will be considerably less than the \$250,000 per path figure that has been discussed generally in connection with proposals for cost-sharing among the PCS licensees. The \$1,304,416 figure set forth in Mr. Wheeler's letter is based on the list price of

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effective communications between the PCS licensees involved in the GVEC relocation, Sprint apparently thought that the true cost to the PCS licensees for the GVEC relocation would be the full \$1,304,416. The breakdown in communications resulted from the fact that there was a "single-point-of-contact" PCS licensee for GVEC's microwave relocation (namely, PrimeCo Personal Communications). Unfortunately, GVEC erroneously assumed that Sprint was obtaining information from PrimeCo concerning the GVEC relocation. This was not, however, the case. As a result, Sprint simply had inaccurate information, and this inaccurate information was obtained by CTIA.³ We have no reason to believe that Sprint did not act in good faith in this matter, and we do not blame Sprint or PrimeCo for the misunderstanding with respect to the actual cost of the GVEC relocation. It should, nevertheless, be noted that the \$1,304,416 figure used in Mr. Wheeler's letter overstates the true cost to the PCS licensees of the GVEC relocation, and we feel that CTIA should have taken better care to confirm the accuracy of such cost figure before using it in a letter to the Chairman of the Commission.

To summarize, the "bottom line" regarding the information in Mr. Wheeler's summary is that GVEC in fact has four (4) duplex paths in the affected spectrum, and the total actual costs to the PCS licensees to relocate such paths will almost certainly be less (probably substantially less) than \$250,000 per path (assuming that we do not encounter unexpected problems with tower costs).

In addition to the misleading nature of Mr. Wheeler's summary on page 2 of his letter, the letter and its attachments contain a number of other assertions and characterizations that we feel we must specifically address. In this regard, the "Microwave Relocation - Bad Actor Form" for GVEC

the proposed replacement equipment. In reality, equipment purchasers (PCS licensees or otherwise) do not generally pay the full list price. Also in this regard, one of the attachments to the letter entitled "Microwave Relocation - Bad Actor Form" indicates an estimated comparable cost per path of \$152,958.00, but no supporting data is provided.

³ Sprint has since been informed that the true cost of the GVEC relocation will be substantially less than the \$1,304,416 figure.

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attached to Mr. Wheeler's letter states that GVEC was playing a waiting game in an attempt to force the licensees into a time crunch.⁴ This is simply not true. GVEC was not and is not playing a game at all in this matter. GVEC's communications system is an indispensable tool in providing a vital service to thousands of customers who depend on GVEC every minute of every day. GVEC takes this matter very seriously. GVEC has not in any way attempted to delay the process to try to gain some sort of advantage in the negotiations. Unfortunately, GVEC is not a wealthy organization, and has limited personnel resources. Those resources are constantly being taxed by other needs. For example, during the course of negotiations with the PCS licensees, GVEC experienced a significant, unrelated emergency which required virtually all of our personnel's attention for several weeks. GVEC has, within reason, tried to accommodate the PCS licensees' scheduling. I cannot, however, overemphasize how critical GVEC communications system is to us, and how careful GVEC feels it must be in replacing that system.⁵ Understandably, CTIA does not necessarily share those concerns. After all, it is not CTIA's system, and CTIA will not have to live with it. CTIA should, however, appreciate and understand our concerns and our need to progress carefully, rather than submitting inflammatory materials to the FCC falsely accusing GVEC of intentionally delaying the relocation process.

In Mr. Wheeler's letter, he states that the information contained in his summary provides clear evidence of bad faith on the part of the named incumbents (including GVEC). Even though the FCC rules do not at this point impose any duty to negotiate in good faith, GVEC in fact acted in good faith in negotiating the relocation agreement that it entered into with PrimeCo. For that matter, we believe that so far PrimeCo and Sprint have also acted in good faith in the GVEC relocation. GVEC's only complaint at this point is with Mr. Wheeler's letter.

⁴ It should be noted in this regard that GVEC has in fact recently completed negotiations for its microwave relocation, and has entered into a Microwave Relocation Agreement with PrimeCo covering all four (4) of GVEC's microwave communications paths.

⁵ If GVEC was replacing its microwave communication system without the pressure of trying to accommodate the PCS licensees, we would probably spend nine (9) to twelve (12) months just on studying how to go about doing so before taking any action.

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As with all negotiations, there has been some give and take on both sides of the bargaining table in GVEC's microwave relocation. GVEC is not going to get everything that it wants in the process, and the PCS licensees will probably provide more to GVEC than they would like. That is the way it is supposed to work.

I should point out that GVEC's relationship with the personnel with the PCS licensees with whom we have had direct contact in the microwave relocation process (primarily PrimeCo, and to a lesser extent, Sprint) has been very good. The people with the PCS licensees with whom GVEC has dealt (i.e. the personnel of the PCS licensees as opposed to their consultants) have all been firm, but fair, in the negotiation process. In fact, GVEC feels that, except for Sprint not receiving accurate information during part of the process, the relocation negotiations have worked the way that they are supposed to in the GVEC relocation. This has made the attack against GVEC set forth in Mr. Wheeler's letter especially surprising and disappointing. We suspect that GVEC was simply a pawn in an attempt by CTIA to mischaracterize the current state of microwave relocation negotiations to persuade the Commission to change the rules to make them more favorable to the PCS licensees.


GVEC cannot, of course, comment on the accuracy of Mr. Wheeler's assertions with respect to the other incumbents named in Mr. Wheeler's letter.⁶ In light of the information concerning GVEC in Mr. Wheeler's letter which we view as very misleading, it does, however, make us question the accuracy of the information in Mr. Wheeler's letter concerning other incumbents. Accordingly, I would hope that the Commission would investigate claims such as those set forth in Mr. Wheeler's letter before basing any action on those claims. In this regard, we would be happy to

⁶ It may very well be that some microwave incumbents are disregarding the spirit and intent of the relocation rules. We do not attempt here to defend the actions of any such microwave incumbents. In this regard, CTIA may have legitimate complaints about some microwave incumbents. This does not, however, justify CTIA's dissemination of misleading information concerning GVEC or any other microwave incumbent.

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discuss this matter further with members of your staff, or provide additional information to your office, if you would like us to do so.

Sincerely,



Steve Slaughter

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cc: Commissioner James Quello
Commissioner Susan Ness
Commissioner Rachelle Chong
Michele Farquhar, Chief, Wireless Telecommunications Bureau